

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAPAT NABAYA,

Plaintiff,

v.

BUREAU OF PRISONS, *et al.*,

Defendants.

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Civil Action No. **3:19-CV-215-L-BN**

ORDER

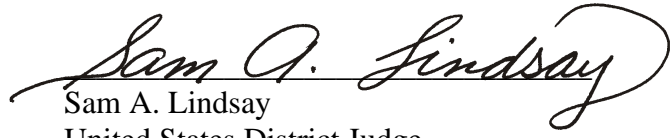
The Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 38) was entered on December 14, 2020. The Report recommends that court construe Plaintiff’s Motion for Judgment on the Pleadings (Doc. 36), filed December 9, 2020, as a motion for relief under Federal Rule of Civil Procedure 59(e) and deny the motion.

Plaintiff did not file objections to the Report, and the time for doing so has passed. Plaintiff, instead, moved on December 28, 2020, for an extension of time to file a Rule 59(e) motion (Doc. 39). Thereafter, Plaintiff filed correspondence (Doc. 40), which was docketed on December 30, 2020, and addressed to the magistrate judge. In this correspondence, Plaintiff requests a writ of mandamus on the ground that “[a]ll federal officers have a ministerial duty to uphold and support the U.S. Constitution.” Def.’s Ltr. 1-2. Plaintiff appears to further assert that the magistrate judge does not have the requisite authority to rule on his Motion for Judgment on the Pleadings.

Having considered the motions, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **construes** Plaintiff’s Motion for Judgment on the Pleadings (Doc. 36) as a motion for relief under Rule 59(e) and **denies** the motion. The court cannot extend

Plaintiff's deadline for filing a motion under Rule 59(e). *See* Fed. R. Civ. P. 6(b)(2). The court, therefore, **denies** Plaintiff Motion for Extension of Time (Doc. 39). The court also **denies** Plaintiff's request for a writ of mandamus, as the magistrate judge had authority to enter the Report (Doc. 38) in light of this court's Order of Reference (Doc. 37) that referred Plaintiff's Motion for Judgment on the Pleadings for proposed findings and recommendations pursuant to 28 U.S.C. § 636(b). Likewise, all prior Reports in this case were entered by the magistrate judge pursuant Miscellaneous Order No. 3, as set forth in the first docket sheet entry in this case. To the extent the writ of mandamus was intended as an objection to the Report (Doc. 38), the objection is **overruled**, after having conducted a de novo review of that portion of the Report to which objection was made.

It is so ordered this 12th day of April, 2021.


Sam A. Lindsay
United States District Judge